

**ZONING BOARD OF APPEALS  
MINUTES OF MEETING  
APRIL 14, 2011**

Town of Bedford  
Bedford Town Hall  
Lower Level Conference Room

**PRESENT:** Jeffrey Cohen, Chair; Jeffrey Dearing, Vice Chair; Brian Gildea, Clerk; Angelo Colasante; Kenneth Gordon; Carol Amick; Stephen Henning

**GUEST:** Walter St. Onge, Selectmen Liaison

**ABSENT:** None

Mr. Cohen introduced himself and read the emergency evacuation notice. The Zoning Board of Appeals (ZBA) members and ZBA assistant introduced themselves.

**PRESENTATION:** Mr. Gildea read the notice of the hearing.

**PETITION #023-11** – Leslie Sims, 28 Riverside Avenue, seeks a Special Permit per Section 7.1.2 and Section 7.1.4 of the Zoning By-Law to construct roof over steps, within front yard setback.

Mr. Cohen designated the voting members for this petition as himself, Mr. Dearing, Mr. Gildea, Mr. Colasante, and Mr. Gordon.

Ms. Sims greeted the Board and explained that there is an existing concrete stoop with steps at her front door, and she would like to erect a roof over the stoop and steps. She said she would have to rebuild the stoop because it has no foundation, but there would be no size increase from what is there now. She commented that the roof would be flat and very simple, to match the simple character of the house.

Mr. Cohen said it is unclear from the plot plan how far away from the property line the existing steps are. Ms. Sims said it is difficult to tell exactly where the property line begins, but she does know that the steps protrude four feet out from the house. Mr. Cohen asked whether Ms. Sims would mind having the approval, if it is given, state that the steps may not protrude more than four feet from the house, instead of having it based on how far it should be from the property line. Ms. Sims said that sounded very reasonable to her.

Ms. Amick said it would have been helpful to have an aerial map printout of the neighborhood to get an idea how close the surrounding structures are to the property lines. The ZBA assistant handed around an aerial map printed from the Town's GIS Property Finder. Mr. Dearing noted that Ms. Sims's house is not the only one in the area that is close to the road, so the roof over the steps isn't necessarily out of character for the

neighborhood.

Mr. Cohen opened the hearing to the public.

With no comments or questions from those in attendance, Mr. Cohen closed the public hearing.

**DELIBERATIONS:**

Mr. Cohen said this application clearly requires a Special Permit, as the lot and structure are pre-existing non-conforming. He noted that the two conditions of a Special Permit are that the project is not injurious or detrimental to the neighborhood and is in keeping with the intent and purpose of the By-Law. He said he feels that the house is so non-conforming that the addition of a small roof over the front steps would hardly be any more detrimental than what is there now. Mr. Dearing agreed, noting that the reality of living in New England is that a roof over front steps is often not just a luxury but a necessity.

Mr. Colasante talked about the Building Code for front steps. Mr. Cohen noted that the Code would be something that the Building Department would handle, so the Board need not worry about it at this hearing.

Mr. Dearing stated that the Board has in the past often made it a condition of the Special Permit that the steps not be enclosed in the future; he asked whether the Board members wanted to do that with this application as well. For clarification, Mr. Cohen asked Ms. Sims whether she would have a problem with such a condition. Ms. Sims replied that she has no problem with that condition, as she had never intended to have it enclosed anyway.

Mr. Henning pointed out that the application was advertised pursuant to both Sections 7.1.2 and 7.1.4 of the Zoning By-Law, and he wondered why the Board can grant a Special Permit under Section 7.1.4, as it states that a dwelling may only be altered or extended if it "does not increase any portion(s) of the existing non-conforming nature of said structure." Mr. Cohen explained that it is Section 7.1.4 that establishes the requirement for the Code Enforcement Director to refer applicants to the Zoning Board to seek zoning relief.

**MOTION:**

Mr. Gildea moved to grant Leslie Sims, 28 Riverside Avenue, a Special Permit per Section 7.1.2 and Section 7.1.4 of the Zoning By-Law to construct roof over steps, within front yard setback, as substantially shown on Exhibits A through C and subject to the condition that the roof project no more than four feet from the house and that it not ever be enclosed.

Mr. Dearing seconded the motion.

Voting in favor: Cohen, Dearing, Gildea, Colasante, and Gordon  
Voting against: None  
Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Cohen explained that the Board has 14 days to write a decision, after which time there is a 20-day appeal period. The applicant is then responsible for getting the decision recorded at the Registry of Deeds. Once the decision is recorded, the applicant may apply for a Building Permit at the Code Enforcement Department.

Ms. Sims thanked the Board members for their time.

**PRESENTATION:** Mr. Gildea read the notice of the hearing.

**PETITION #024-11** – Pamela Brown, Esq., for Perch on Bedford Common, 24 South Road, seeks a Special Permit per Sections 7.4.2 and 7.4.3 of the Zoning By-Law for relief from parking dimensional regulations and number of required parking spaces; and a Special Sign Permit per Article 40.5 Section 2 of the Sign By-Law to illuminate sign.

Mr. Cohen designated the voting members for this petition as himself, Mr. Dearing, Mr. Gildea, Mr. Colasante, and Mr. Gordon.

Ms. Brown greeted the Board and said the owners apologized that they couldn't make it tonight. She explained that the original proposal for this property was to have a coffee shop, but after hearing all the concerns from the neighbors they have done away with that proposal and now hope to open a small crafts store instead. She said they are in the process of finishing the site plan review process with the Planning Board for this by-right retail shop, and there are two items from which they need Zoning relief: the first section involves the sign illumination and the second is relief from parking regulations. She suggested taking the items one at a time and starting with the sign; Mr. Cohen agreed that that was the best way to proceed.

Ms. Brown explained that the business will most likely be open from 9:00 AM to 7:00 PM each day, although she doesn't want to hold the owners to those hours in case they want to be open later one or two days a week. She said the signs would only need to be illuminated for those hours. Ms. Brown stated that they propose one two-sided freestanding sign and one wall sign; she showed a rendering of the proposed wall and freestanding signs (see attachment). She circulated the Notice of Determination from the Historic District Commission (HDC), which approved the signs at its last meeting.

Ms. Amick asked precisely where the house is on South Road, particularly in relation to Old Town Hall. Ms. Brown responded that it is two houses away from the Old Town Hall, directly next to Salon Giovanni.

Ms. Brown said that the HDC approved the light fixture for the freestanding sign as shown in this application; she said they did not approve a light fixture for the wall sign, as the owner became unsure at that meeting whether she wanted any lighting for the wall sign at all. Ms. Brown said that she would appreciate it if the Board could approve the illumination of the sign tonight so that, if the owner chooses to illuminate the wall sign at a later date, they will already have the ZBA approval and only have to go back before the HDC.

Ms. Brown stated that the original proposal by the electrician was to illuminate the wall sign with three gooseneck fixtures, and it was from three fixtures that the measurements for the certification letter were calculated; however, after further consideration, everyone involved decided that three fixtures were too many, and if they were to illuminate the wall sign, it would only be with two. Mr. Cohen asked whether the applicant would have a problem with a condition stating that there are only two lighting fixtures instead of three. Ms. Brown replied that they would not only be fine with such a motion but would expect it.

Mr. Cohen opened the hearing to the public for comments on the sign illumination only.

With no comments or questions regarding the sign illumination from those in attendance, Mr. Cohen closed the public hearing.

#### **DELIBERATIONS (ON SIGN ILLUMINATION):**

Mr. Cohen said that the requirements for a Special Permit for a sign are the same as any other Special Permit application: the sign should not be detrimental or injurious to the neighborhood and does not derogate from the intent and purpose of the By-Law. He said the Board has everything it is required to have: a cut sheet on the lighting; a letter from an electrician stating that the illumination will not exceed 75 foot lamberts; an authorization letter from the owner; and a rendering of what the sign will look like. He said that the HDC has stated in its Notice of Determination that the fixture shall be shielded by low-lying evergreens, and since the sign has had HDC approval, he is comfortable that the sign and lighting fixture will be attractive as well as meet the illumination requirements of the Sign By-Law.

The Board talked briefly about the look and aesthetics of the sign. Mr. Colasante said that if the HDC approved the look of the sign, that is enough evidence for him that the sign is attractive.

Mr. Henning asked whether all the illuminated signs in Bedford are on timers. Mr. Cohen said that all the illuminated signs the ZBA has approved since he has been on the Board have been on timers, and he knows the Town tries to keep that a practice to avoid signs being lit between 11:00 PM and 6:00 AM.

Mr. Dearing asked whether the Board should see an approval from the HDC for the wall sign fixtures before it grants them. Mr. Cohen said that the Board is only approving the

illumination of the sign as part of this Special Permit, thus ensuring that the amount of illumination is within the limits of the Sign By-Law; but the look and color of the fixtures themselves would still need HDC approval.

**MOTION:**

Mr. Gildea moved to grant to Pamela Brown, Esq., for Perch on Bedford Common, 24 South Road, a Special Sign Permit per Article 40.5 Section 2 of the Sign By-Law to illuminate signs, subject to the following conditions: 1) that signs are turned off when the business is closed; 2) that the signs be on a timer; and 3) that the wall sign have only two fixtures.

Mr. Dearing seconded the motion.

Voting in favor: Cohen, Dearing, Gildea, Colasante, and Gordon

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Cohen explained that the Board has 14 days to write a decision, after which time there is a 20-day appeal period. The applicant is then responsible for getting the decision recorded at the Registry of Deeds. Once the decision is recorded, the applicant may apply for a Sign Permit at the Code Enforcement Department.

Ms. Brown said that other item for which the applicants need relief is parking regulations. She said that this is a small site with a small building, and since it is so close to the Town Common, the desire for all involved is to minimize the amount of paving. She said that their parking requests are actually very basic and can be seen on the site plan: because of the size of the lot, they are requesting that the depth of the parking stalls be 18 feet instead of 19; they request a 22-foot maneuvering aisle instead of 24 feet, also because of the lot size; and, finally, they request two of the required parking spaces to be on the street. She commented that this will not be a busy lot with people constantly coming in and out, as might happen with something like a take-out restaurant, so the Planning Board members agreed that these requests are reasonable.

Ms. Brown explained that the Zoning By-Law requires eight parking spaces for this site, for six customer spaces and two employee spaces. Mr. Cohen asked what the second floor would be used for, and Ms. Brown replied that the applicants are still unsure whether it will be a residence, office, or storage.

Mr. Gordon asked whether anyone had any sense of the turnaround for the other on-street parking spaces and how often they are used. Ms. Amick noted that she lives close to this property and most, if not all, of the street parking spaces fill up very early in the morning from people taking the bus to work, and the spaces aren't emptied until those same people get back from work in the late afternoon or early evening. Mr. Cohen noted that it

is unfortunate that no one keeps track of those spaces; he asked Walter St. Onge, a resident of 102 Pine Hill Road and the Selectman Liaison to the ZBA, whether the Board of Selectmen had any progress on a Master Plan for that area. Mr. St. Onge said a Master Plan was still in development and traffic studies have been done in that area, but it all remains in a very early stage.

Ms. Amick asked whether a Special Permit stays with the business or with the property. Mr. Cohen replied that it always runs with the land. Ms. Amick said her main concern is not the parking for this business but for future businesses; she agreed that six parking spaces in back, with two others on the street, are probably adequate for this particular business, but it may not be if a different type of business goes in. Ms. Brown said that the Zoning By-Law only allows this type of business by right, but if there were a different kind of use – such as the coffee shop proposed before, or any kind of business with a lot of turnaround – it would have to come before the ZBA anyway. Mr. Cohen confirmed that this was the case, and the kind of business that might give the Board concerns regarding parking would be the kind not allowed as of right. Ms. Amick said that alleviates some of her concerns.

Mr. Colasante said it appears from the site plan that the curb cut will be widened. Ms. Brown said that is correct. Mr. Colasante asked whether the Board could condition its motion on the curb being cut to the width shown on the site plan, because his only concern with the driveway is that the Board approves a wide driveway but then the curb cut isn't widened, thereby technically allowing a bottleneck. Mr. Cohen said that was a very good point and stated that such a motion would be a wise idea.

Mr. Cohen opened the hearing to the public.

Doris Webber, of 8 Maple Street, said that the reality of parking on the common is that there is none; the spaces get filled at 6:30 every morning and are filled until after 5:00 each evening. She said her biggest concern is the safety of the intersection of Maple Street and South Road, because cars park along South Road right up to the corner of Maple, and it makes it practically impossible to see down the street when pulling out of Maple Street.

Mr. Gordon said that the concern about not enough parking is justified and reasonable, but the flip side of not having enough parking is having a community center that is all pavement with no greenspace. He said the Town's main concern should be to find a way to better keep track of the parking spaces that are there. Mr. Colasante agreed, stating that either parking meters or just signs reading "Two Hour Parking Only" could help free up the parking spaces, at least from people parking all day.

There was further discussion about the parking along South Road and Maple Street. Ms. Brown noted that the Board isn't so much granting on-street parking as it is really allowing six parking spaces at the premises instead of eight. Ms. Webber said she is worried that people will want to park across the street from this business, and there really

isn't much parking available.

Ms. Brown said that Bedford is striving to have a viable community center, and this is the kind of business that will help make that happen. She stated that it is also so close to the center of Town that it wouldn't necessarily need a lot of parking, as much of the business -- at least initially -- will come from people walking through the area.

Mr. St. Onge asked whether there will be a sign indicating that the parking will be in the rear of the lot; he pointed out that having a lot in the back won't do anyone much good if people don't know it's there. Ms. Brown said that was a good point and said they would be happy to put up sign, which Christopher Laskey, the Code Enforcement Director, will be able to approve as a simple directional sign. Ms. Amick asked whether that would get approved by the HDC as well. Ms. Brown said the HDC probably would want to have a say in the look of such a sign so it would get the Commission's approval before being installed.

Mr. Cohen stated that he believes the Selectmen Liaison has heard the Board's and the neighbor's concerns and hopes that something will be done to alleviate the parking situation in the future.

With no further comments or questions from those in attendance, Mr. Cohen closed the public hearing.

#### **DELIBERATIONS (ON PARKING):**

Mr. Cohen reiterated that the applicants are seeking the following relief from parking regulations: 18-foot stall depth instead of the required 19; a 22-foot maneuvering aisle instead of 24; and two of the eight required spaces to be allowed as on-street parking. He said that the Board members must weigh the same requirements for this parking relief as they did for the sign; they must ask whether this project is detrimental or injurious to the neighborhood and is in keeping with the intent and purpose of the By-Law. Mr. Cohen said he feels that the project meets those requirements and is a good use of the location -- much better than the originally proposed coffee shop. Mr. Dearing agreed. Mr. Gildea agreed as well, provided that the Board makes the aforementioned condition about the widening of the curb cut as shown on the site plan.

Ms. Amick said she thinks it is unfortunate that the parking in that area is such a mess and the Town does not yet have a master plan for parking from the Selectmen, but she agrees that this shop is the kind of store that Bedford hopes to have in its center.

#### **MOTION:**

Mr. Gildea moved to grant to Pamela Brown, Esq., for Perch on Bedford Common, 24 South Road, a Special Permit per Sections 7.4.2 and 7.4.3 of the Zoning By-Law for relief from parking dimensional regulations and number of required parking spaces, as

substantially shown on Exhibits A through J and subject to the condition that the curb cut be widened as shown on Exhibit D.

Mr. Dearing seconded the motion.

Voting in favor: Cohen, Dearing, Gildea, Colasante, and Gordon

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Cohen explained that the Board has 14 days to write a decision, after which time there is a 20-day appeal period, after which time they are free to proceed with this plan, provided it gets the final Site Plan Approval from the Planning Board.

## **BUSINESS MEETING:**

### **2 Carter Way – Deck**

Ms. Brown said she is now being joined by Claudia and Brendan Foy, the owners of 2 Carter Way, who would like to put a deck on their house. She noted that Carter Way is part of the Habitat for Humanity Comprehensive Permit, and any changes to that permit must be approved by Mr. Laskey; he then either decides it is so insignificant that it does not need any input from the ZBA, or that it is significant enough for the ZBA to weigh in. In this case, Mr. Laskey had decided that it should be the Board's decision whether or not the deck is a significant enough change to the Comprehensive Permit to require a formal public hearing.

Ms. Brown explained that the deck meets the zoning setbacks for Bedford, and it is tucked well into the L-shaped corner of the house, so it is reasonably conspicuous. She said that the problem with this particular house is that it is the only house in the Carter Way development that is original and not new construction, and is therefore considerably smaller than the surrounding Habitat houses; this creates a greater need for more space. She commented that this is also the only house without a farmer's porch, so it is the only Habitat house without any outdoor gathering space. Ms. Brown stated that the Foyes could have built a patio by right, but a patio is more expensive and also less preferable because it doesn't have the feeling of a deck. She concluded by noting that the deck will only be approximately one foot off the ground, so it will not be a high or overwhelming structure.

Mr. Cohen said that he could see this change as insignificant, because there is very minimal impact to the surrounding dwellings, given how segregated it is from the other houses. He said that he would have a problem if the other homeowners on Carter Way wanted decks because the lots are so tight, but this one is more removed and, as Ms. Brown noted, has less space — especially outdoor space.



The Board talked about the Comprehensive Permit and its restrictions and conditions. Mr. Gildea said that he was present for the final hearings on the Habitat Comprehensive Permit, and he recalls discussion about fences or sheds not being allowed because of the small and confined nature of the lots. He said that a deck would fall into a similar realm of structures, so it isn't quite insignificant in his mind.

Mr. Cohen said that from a strictly legal sense, this change is considered insignificant, as there is a list of items under Chapter 40B that are listed as "significant" and the addition of a deck is not one of them; he said that he does understand, however, why some of the Board members could think of it as significant.

Mr. Colasante said that he is not concerned about the deck so much as the precedent being set by allowing it. Ms. Amick agreed, adding that if this is allowed, the Board should be very careful about how its motion is worded, to avoid the possibility of the other Habitat homeowners requesting something similar.

The Board members talked briefly with Mr. Foy about how the deck would be constructed.

Mr. Gordon said he is not sure that he is comfortable making a ruling or finding without giving the abutters the opportunity to comment. There was discussion about the pros and cons of getting input from the neighbors or from the Homeowner's Association. Ms. Foy pointed out that they are good friends with their direct abutters, so it would not be difficult to get a letter from them showing their support.

Mr. Gildea agreed that, at the very least, the direct abutter should be given a chance to weigh in, if not the Homeowner's Association.

Ms. Brown said she would hate to make the applicants go through the entire public hearing process because it is very time-consuming and it would be the end of the summer by the time the deck was even permitted.

Mr. Colasante said he feels a deck is a significant change – at least significant enough to require some input from the neighbor. Mr. Gildea and Mr. Dearing agreed. Ms. Amick pointed out that she was not here when the Comprehensive Permit was originally discussed or approved, but if it is true that the Comprehensive Permit did not allow fences or sheds, then she feels the very least the Board should do in this instance is to allow input from the direct abutter. Mr. Gordon said he would be more comfortable with a public hearing, but at the least he would like a letter from the abutter, and preferably also from the Homeowner's Association.

Mr. Cohen said it is clear that the majority of the Board would like to see input from the abutters; he suggested that the applicants return to the next ZBA meeting with at least a letter from the abutting neighbor, adding that a letter from the Homeowner's Association would be helpful. Ms. Amick noted that continuing this hearing to the next meeting also gives the Board members an opportunity to drive by the property to see it first-hand.

Ms. Brown said she could put together a packet with the necessary letters, along with a rendering which will show what the deck looks like.

Mr. Cohen said this is a business meeting so it does not require a motion for a continuation, but the Board will reconvene this business meeting on April 28, 2011 at 7:30 PM. He added that, because this is a vote regarding a Comprehensive Permit, there will only need to be a simple majority of three members voting in favor of the change.

Ms. Brown thanked the Board for its time.

**Approval of Meeting Minutes**

Mr. Cohen said that the last item of business tonight is to approve the minutes of the last meeting.

**MOTION:**

Mr. Gildea moved to approve the minutes of the March 10, 2011 ZBA meeting.

Mr. Dearing seconded the motion.

Voting in favor: Cohen, Dearing, Gildea, Colasante, Gordon, Amick, and Henning

Voting against: None

Abstained: None

The motion carried unanimously, 7-0-0.

**MOTION:**

Ms. Amick moved to adjourn the meeting.

Mr. Dearing seconded the motion.

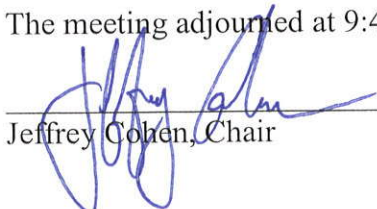
Voting in favor: Cohen, Dearing, Gildea, Colasante, Gordon, Amick, and Henning

Voting against: None

Abstained: None

The motion carried unanimously, 7-0-0.

The meeting adjourned at 9:40 PM.

  
Jeffrey Cohen, Chair

4/28/11  
Date

Respectfully Submitted,

Scott Gould  
ZBA Assistant